

REMARKS

Claim 11 has been amended to delete the process steps. Additionally, claim 11 has been amended to delete the phrase “substantially free of DNA” and add the phrase “the DNA content of the liver basement membrane is about 0.566 to about 0.04 micrograms of DNA per milligram of dry weight of the liver basement membrane.” Support for this amendment can be found in Example 8, on page 22, line 13, labeled “Native,” of the specification as filed. New claim 19 has been added. Support for new claim 19 can be found on page 5, lines 30-33 and page 6, lines 14-17, of the specification as filed.

Definiteness under 35 U.S.C. § 112, second paragraph:

Claims 11-15, 17 and 18 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. For clarification, Applicants have amended claim 11 to delete the phrase “substantially free of DNA” and to add the phrase “the DNA content of the liver basement membrane is about 0.566 to about 0.04 micrograms of DNA per milligram of dry weight of the liver basement membrane.” Accordingly, Applicants respectfully traverse the Examiner’s rejection. Withdrawal of the rejection of claims 11-15, 17 and 18 under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Anticipation under 35 U.S.C. §§ 102(e) and 102(b):

The Examiner has rejected claims 11-15, 17 and 18 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,379,710 (Badylak, 2002) and under 35 U.S.C. § 102(b) as being anticipated by WO 98/25637 (Badylak, 1998). U.S. Patent No. 6,379,710 (the ‘710 patent) issued from the U.S. National Application based on PCT/US97/22727

(Publication No. WO 98/25637). Thus, the arguments below will apply with equal force to both Badylak references cited above.

The Examiner contends that the liver basement membrane composition taught by the '710 patent and WO 98/25637 is the same as the product claimed in the instant application. Independent claim 11 has been amended to specify that "the DNA content of the liver basement membrane is about 0.566 to about 0.04 micrograms of DNA per milligram of dry weight of the liver basement membrane."

Anticipation exists only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The '710 patent and WO 98/25637 do not disclose a DNA content range for liver basement membrane that is about 0.566 to about 0.04 micrograms of DNA per milligram of dry weight of the liver basement membrane. Consequently, the '710 patent and WO 98/25637 do not disclose a required element of amended claims 11-15, 17, and 18, and the '710 patent and WO 98/25637 cannot anticipate the amended claims of the instant application. Accordingly, Applicants respectfully traverse the Examiner's rejection. Withdrawal of the rejections of amended claims 11-15, 17, and 18 under 35 U.S.C. §§ 102(e) and 102(b) is respectfully requested.

CONCLUSION

The foregoing amendments and remarks are believed to fully respond to the Examiner's rejections. The claims are in condition for allowance. Applicants respectfully request allowance of the claims, and passage of the application to issuance.

Respectfully submitted,



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